

## CRIMINAL DEFERRED JUDGMENT PROGRAM

The following guidelines have been adopted by the Wichita City Attorney's office for Criminal Diversion (violations of Chapter 5) Program in Wichita Municipal Court.

Diversion is a privilege afforded an accused and is not a right. No presumption in favor of diversion exists in any case, and the burden of persuasion rests with the applicant to establish that a diversion agreement will best serve the ends of justice and the interests of the community, public safety and the rights of victims.

It is not required that the defendant have an attorney for the purpose of diversion, however, a defendant has the right to employ an attorney and have him/her present throughout the diversion process.

You may be eligible for consideration for the Criminal Deferred Judgment Program if:

You have **not** been convicted of such a crime, or a similar crime in this or any jurisdiction within (five) years of the date of the offense.

You have **not** participated in a Diversion or Deferred Judgment Program for a similar offense within (five) years of date of the offense.

Weapons and prostitution charges are **not** eligible for deferred judgment.

Animal Control (Chapter 6), Housing (Chapter 20) and Licensing violations (Chapter 3 and 4) **may be considered** for diversion on a case by case basis.

You must apply for the Criminal Deferred Judgment **within 30 days** from your initial appearance for such a crime and **pay the \$25 non-refundable application fee.**

If your application for the Deferred Judgment is accepted, you must enter a plea of guilty to the charge(s) against you. The City will then ask the Court to defer judgment and sentence on that plea for a period **not to exceed one year.**

In return, you must do the following:

1. **PAY ALL COSTS, FEES AND FINES:**

Fine.....	\$250.00
City Deferred Judgment.....	\$100.00
Application Fee.....	\$ 25.00
Court Costs.....	<u>\$ 77.00</u>
<b>TOTAL</b>	<b>\$452.00</b>

You will be responsible for all additional court costs incurred during the course of your case.

**A MINIMUM PAYMENT OF \$200.00 MUST BE PAID AT THE TIME THE DEFERRED JUDGMENT AGREEMENT IS SIGNED. ALL REMAINING FINES AND COURT COSTS ARE DUE WITHIN NINETY DAYS.**

2. Agree to waive your constitutional rights to a formal arraignment, speedy trial and a jury trial on the charges against you.
3. Attend and successfully complete as set out by the Deferred Judgment Agreement, any applicable treatment requirements. Treatment may include, but is not limited to the following: ADSAP, Anger Management, Drug and Alcohol counseling program and Community Service.
4. Make full restitution to the victim in your case.
5. Violate no laws of any City, State or of the United States.
6. Agree and abide by whatever additional conditions the City Attorney deems appropriate.

**Application forms for the Criminal Deferred Judgment Program are available in the Municipal Court Clerk's Office – 2<sup>nd</sup> floor, City Hall, 455 North Main, and filed with the same office. You can also download the application from the City of Wichita website at [www.wichita.gov](http://www.wichita.gov).**

At that time you file your application, you will be given a deferred judgment hearing date to appear in court. Failure to appear at this court date will result in possible denial of your application and a bench warrant for your arrest.

In considering whether the defendant should be placed in the Criminal Deferred Judgment Program, the City Attorney shall consider the following factors:

1. The nature of the crime charged and the circumstances surrounding it;
2. Any special characteristics or circumstances of the defendant;
3. Whether the defendant is a first-time offender and if the defendant has previously participated in diversion or deferred judgment program in any other jurisdictions;
4. Whether there is a probability that the defendant will cooperate with and benefit from the deferred judgment program.
5. Whether the deferred judgment program is appropriate to the needs of the defendant;
6. The impact of the deferred judgment of the defendant upon the community;
7. Recommendations, if any, of the involved law enforcement agency;
8. Recommendations, if any, of the victim;

9. Provisions for restitution;
10. Any mitigating circumstances;
11. Prior psychological, psychiatric and chemical treatments or counseling programs;
12. The interest of justice.

If you successfully complete the Criminal Deferred Judgment Program, a motion will be made to the Municipal Court to withdraw your plea of guilty to the charges against you. At that time, the City Attorney will dismiss the charges with prejudice. If you fail to complete the requirements of the Criminal Deferred Judgment agreement, the City Attorney will request a hearing at which time he or she will ask the Court to remove you from the program. If after hearing the evidence, the Court does remove you from the program, the Court will then proceed to impose judgment and sentence against you based upon your prior plea of guilty.

## **CRIMINAL DEFERRED JUDGMENT**

***APPLICATION WILL NOT BE ACCEPTED WITHOUT PAYMENT OF APPLICATION FEE AT  
THE TIME OF FILING***

CASE NO.: \_\_\_\_\_  
DOCKET NO.: \_\_\_\_\_

COURT DATE: \_\_\_\_\_  
DATE ASSIGNED: \_\_\_\_\_

### **APPLICATION FOR CRIMINAL DEFERRED JUDGMENT PROGRAM** **ALL ANSWERS MUST BE COMPLETE. TYPE OR PRINT CLEARLY**

FULL NAME: \_\_\_\_\_

Telephone Number \_\_\_\_\_

Maiden name or other name used: \_\_\_\_\_

ADDRESS:

\_\_\_\_\_  
(Street) (City) (State) (Zip)

HOW LONG HAVE YOU LIVED AT THIS ADDRESS: \_\_\_\_\_

WHO DO YOU LIVE WITH NOW \_\_\_\_\_  
(Name) (Relationship)

YOUR AGE: \_\_\_\_\_ DATE OF BIRTH: \_\_\_\_\_ SEX: \_\_\_\_\_

RACE: \_\_\_\_\_ CITY AND STATE WHERE YOU WERE BORN \_\_\_\_\_

In what other cities and states have you lived?

<u>City</u>	<u>State</u>	<u>Dates lived there</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

SOCIAL SECURITY NUMBER: \_\_\_\_\_

MARRIAGE STATUS: \_\_\_\_\_ SPOUSE'S NAME: \_\_\_\_\_

SPOUSE'S AGE: \_\_\_\_\_ SPOUSE'S EMPLOYMENT: \_\_\_\_\_

NUMBER OF DEPENDENTS: \_\_\_\_\_

<u>NAME</u>	<u>AGE</u>	<u>NAME</u>	<u>AGE</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

EDUCATION:

SCHOOL

LOCATION

GRADE OR DEGREE

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VOCATIONAL TRAINING: YES \_\_\_\_ NO \_\_\_\_ TYPE \_\_\_\_\_

MILITARY SERVICE: YES \_\_\_\_ NO \_\_\_\_ BRANCH \_\_\_\_\_

TYPE OF DISCHARGE: \_\_\_\_\_ DATE OF DISCHARGE \_\_\_\_\_

NEAREST CONTACT:

NAME: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

RELATION TO DEFENDANT:

\_\_\_\_\_

DEFENSE ATTORNEY:

NAME: \_\_\_\_\_ TELEPHONE \_\_\_\_\_

PRESENT EMPLOYMENT:

EMPLOYER: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DATE EMPLOYED: \_\_\_\_\_ OCCUPATION/TYPE OF WORK: \_\_\_\_\_

CURRENT SALARY: \_\_\_\_\_

EMPLOYMENT HISTORY:

List your employment for the last six years. Begin with last previous employer. If you need additional space, use a blank sheet of paper.

EMPLOYER: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_

DATE EMPLOYED: \_\_\_\_\_ OCCUPATION/TYPE OF WORK: \_\_\_\_\_

REASON LEFT: \_\_\_\_\_

EMPLOYER: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DATE EMPLOYED: \_\_\_\_\_ OCCUPATION/TYPE OF WORK: \_\_\_\_\_

REASON LEFT: \_\_\_\_\_

EMPLOYER: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DATE EMPLOYED: \_\_\_\_\_ OCCUPATION/TYPE OF WORK: \_\_\_\_\_

REASON LEFT: \_\_\_\_\_

PRESENT SOURCE(S) OF INCOME

1. DEFENDANT'S EMPLOYMENT: \$ \_\_\_\_\_ PER MONTH
2. SPOUSE'S EMPLOYMENT: \$ \_\_\_\_\_ PER MONTH
3. UNEMPLOYMENT COMPENSATION: \$ \_\_\_\_\_ PER MONTH
4. PUBLIC ASSISTANCE: \$ \_\_\_\_\_ PER MONTH
5. OTHER: \$ \_\_\_\_\_ PER MONTH

If other, please indicate source: Parents \_\_\_\_\_ Relatives \_\_\_\_\_

Other: \_\_\_\_\_

**Prior Traffic Offense Record:** (List **all** juvenile and adult traffic incidents, Arrests, Diversions, Deferred Prosecutions, Convictions and Expungements in Kansas or other states, including those not resulting in formal charges or convictions. Include date of arrest, citation or incident, arresting or ticketing agency, charge and disposition.) **Use blank sheet of paper if needed.**

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**Prior Criminal Offense Record:** (List **all** juvenile and Adult incidents, Arrest, Citations, Charges, Convictions, Expungements, Diversions or Deferred Prosecution Agreements in Kansas or any other states, including those not resulting in formal charges or convictions. Include date of incident involved, agency, charge and disposition.) **Use blank sheet of paper if needed.**

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Have you ever received or attended counseling or treatment for an alcohol, drug, emotional or psychological problem or disorder? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, state when, where, and the reason for attendance. \_\_\_\_\_

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Are you currently taking any prescription medications? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, list all prescriptions and doses taken:

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Are you now, or have you ever participated in any other diversion or deferred judgment program?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please state where, the effective date of the program and the charge(s) diverted.

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Do you have any other charges pending in this city or another city, state, or federal jurisdiction?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please state where and what charges.

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- I understand that I am under a duty to notify the prosecutor's office of any new criminal charges prior to acceptance into the program.

Is there any divorce, separation, child custody or other domestic action presently pending in District Court or any other court involving you, your spouse or partner, or your dependents?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please state where and what.

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**STATE IN YOUR OWN WORDS WHY YOU WERE CHARGED FOR THIS OFFENSE:**

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I hereby apply for status as a participant in the deferred judgment program and request that upon my plea of guilty to the charge or charges listed herein, the Municipal Court Judge temporarily defer judgment and sentencing against me in order to permit consideration of this application. I understand that the final decision to request that the Court defer judgment and sentencing in my case rests entirely with the City Attorney. I further understand that by applying for the City's deferred judgment program that I agree to waive my statutory and constitutional rights to have a speedy trial in this matter.

I authorize the City Attorney's Office to conduct an investigation to determine my suitability for this program. I understand that any information furnished by me or authorized by me to be furnished to the Office of the City Attorney in connection with this investigation will be kept confidential.

A false answer to any question in this application may be grounds for recommendation against placement into this program or removal after placement in the program, in which case the City Attorney will request that the Municipal Court Judge enter judgment and sentence against me upon my plea of guilty to the original charge(s).

\_\_\_\_\_  
DATE

\_\_\_\_\_  
APPLICANT